

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

TAYLA GREEN, ET AL

CIVIL ACTION NO. 3:20-CV-578

VERSUS

JUDGE TERRY A. DOUGHTY

TROOPER DAKOTA DEMOSS, ET al

MAG. JUDGE KAREN L. HAYES

**INVOCATION OF THE DEFENSE OF QUALIFIED IMMUNITY, AFFIRMATIVE
DEFENSES, ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT AND
JURY DEMAND**

NOW INTO COURT, through undersigned counsel, comes the defendant, DEPUTY CHRISTOPHER HARPIN, who respectfully files the following Answer and Affirmative Defenses in response to the allegations contained in Plaintiffs' Second Amended Complaint. Defendant denies each and every allegation contained therein, except those which are hereinafter expressly admitted, and further represents that:

INVOCATION OF THE DEFENSE OF QUALIFIED IMMUNITY

Defendant hereby invokes the defense of qualified immunity, which bars Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendant upon which relief can be granted, in whole or in part.

SECOND AFFIRMATIVE DEFENSE

The sole and only cause and proximate cause of any damage to Plaintiff was Plaintiff's own actions and/or omissions or the actions and/or omissions of others over whom Defendant had no control.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's suit is barred, in whole or in part, by the applicable statute of limitations or prescriptive period.

FOURTH AFFIRMATIVE DEFENSE

At all times, the Defendant's actions were professional, lawful and appropriate under the circumstances of the incident sued upon, therefore Defendant asserts the defense of qualified immunity. The defendant acted with no malice or unlawful intent whatsoever.

FIFTH AFFIRMATIVE DEFENSE

Defendant denies that any state or federal violations occurred in the instant case.

SIXTH AFFIRMATIVE DEFENSE

Defendant denies that Plaintiff is entitled to any relief under federal or state law.

SEVENTH AFFIRMATIVE DEFENSE

Defendant affirmatively denies that Plaintiff sustained any damages as a result of any alleged unlawful action by this Defendant.

EIGHTH AFFIRMATIVE DEFENSE

As a political subdivision of the State of Louisiana, Defendant is entitled to and hereby pleads the statutory limitation of liability, costs, and interest contained in LSA-R.S. 13:5106 and LSA-R.S. 13:5112, as well as any other statutory or jurisprudential limitation of liability, costs, and/or interest available to Defendant under the law.

NINTH AFFIRMATIVE DEFENSE

Alternatively, in the event the actions of Defendants are found to have been the proximate cause of any injury to Plaintiff, which is at all times denied, such actions were accidental and/or

inadvertent, without malice or intent to deprive Plaintiff of his civil rights or any rights afforded under federal or state law.

TENTH AFFIRMATIVE DEFENSE

Defendant avers that none of his actions deprived Plaintiff of any rights secured by the United States Constitution.

ELEVENTH AFFIRMATIVE DEFENSE

The Defendant further pleads comparative negligence, consent and/or other acts constituting fault or consent on the part of Plaintiff which may bar recovery herein, or alternatively, act as a diminution to any damages.

TWELFTH AFFIRMATIVE DEFENSE

Defendant herein pleads that, to the extent that any acts or omissions of the defendants are found to be a cause of the Plaintiff's damages, which is denied, that all such acts or omissions constitute policy-making or discretionary acts, which said acts were in the course and scope of Defendant's lawful powers and duties and, as such, he is immune from tort liability under Federal and Louisiana law, including but not limited to L.S.A. R.S. 9:2798.1.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant also reserves the right to assert any and all additional applicable immunities available under law.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendant also reserves the right to assert further affirmative defenses as they become evident through discovery or further investigation.

AND NOW, further answering the specific allegations enumerated in Plaintiff's Complaint, Defendant denies each and every allegation except as expressly admitted below:

1.

Defendant denies the allegations contained in Paragraph 1 of the Complaint for lack of sufficient information to justify a belief therein at this time.

2.

Defendant denies the allegations contained in Paragraph 2 of the Complaint for lack of sufficient information to justify a belief therein at this time.

3.

Defendant denies the allegations contained in Paragraph 3 of the Complaint for lack of sufficient information to justify a belief therein at this time.

4.

Defendant denies the allegations contained in Paragraph 4 of the Complaint for lack of sufficient information to justify a belief therein at this time.

5.

Defendant denies the allegations contained in Paragraph 5 of the Complaint for lack of sufficient information to justify a belief therein at this time.

6.

Defendant denies the allegations contained in Paragraph 6 of the Complaint for lack of sufficient information to justify a belief therein at this time.

7.

Defendant denies the allegations contained in Paragraph 7 of the Complaint for lack of sufficient information to justify a belief therein at this time.

8.

Defendant denies the allegations contained in Paragraph 8 of the Complaint for lack of sufficient information to justify a belief therein at this time.

9.

Defendant denies the allegations contained in Paragraph 9 of the Complaint except to admit Deputy Harpin's status.

10.

Defendant denies the allegations contained in Paragraph 10 of the Complaint for lack of sufficient information to justify a belief therein at this time.

11.

Defendant denies the allegations contained in Paragraph 11 of the Complaint for lack of sufficient information to justify a belief therein at this time.

12.

Defendant denies the allegations contained in Paragraph 12 of the Complaint for lack of sufficient information to justify a belief therein at this time.

13.

Defendant denies the allegations contained in Paragraph 13 of the Complaint for lack of sufficient information to justify a belief therein at this time.

14.

Defendant denies the allegations contained in Paragraph 14 of the Complaint for lack of sufficient information to justify a belief therein at this time.

15.

Defendant denies the allegations contained in Paragraph 15 of the for lack of sufficient information to justify a belief therein at this time.

16.

Defendant denies the allegations contained in Paragraph 16 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time. Defendant further asserts that any writing referenced is the best evidence of its contents.

17.

Defendant denies the allegations contained in Paragraph 17 of the Complaint for lack of sufficient information to justify a belief therein at this time.

18.

Defendant denies the allegations contained in Paragraph 18 of the Complaint for lack of sufficient information to justify a belief therein at this time.

19.

Defendant denies the allegations contained in Paragraph 19 of the Complaint except to admit that jurisdiction and venue are proper.

20.

Defendant denies the allegations contained in Paragraph 20 of the Complaint except to admit that jurisdiction and venue are proper.

21.

Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22.

Defendant denies the allegations contained in Paragraph 22 of the Complaint.

23.

Defendant denies the allegations contained in Paragraph 23 of the Complaint for lack of sufficient information to justify a belief therein at this time.

24.

Defendant denies the allegations contained in Paragraph 24 of the Complaint for lack of sufficient information to justify a belief therein at this time.

25.

Defendant denies the allegations contained in Paragraph 25 of the Complaint for lack of sufficient information to justify a belief therein at this time.

26.

Defendant denies the allegations contained in Paragraph 26 of the Complaint for lack of sufficient information to justify a belief therein at this time.

27.

Defendant denies the allegations contained in Paragraph 27 of the Complaint for lack of sufficient information to justify a belief therein at this time.

28.

Defendant denies the allegations contained in Paragraph 28 of the Complaint for lack of sufficient information to justify a belief therein at this time.

29.

Defendant denies the allegations contained in Paragraph 29 of the Complaint for lack of sufficient information to justify a belief therein at this time.

30.

Defendant denies deny the allegations contained in Paragraph 30 of the Complaint for lack of sufficient information to justify a belief therein at this time.

31.

Defendant denies the allegations contained in Paragraph 31 of the Complaint for lack of sufficient information to justify a belief therein at this time.

32.

Defendant denies the allegations contained in Paragraph 32 of the Complaint for lack of sufficient information to justify a belief therein at this time.

33.

Defendant denies the allegations contained in Paragraph 33 of the Complaint. It is admitted that Deputy Harpin made it to the scene at some point, but several minutes after the aforementioned individuals.

34.

Defendant denies the allegations contained in Paragraph 34 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

35.

Defendant denies the allegations contained in Paragraph 35 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

36.

Defendant denies the allegations contained in Paragraph 36 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

37.

Defendant denies the allegations contained in Paragraph 37 of the Complaint.

38.

Defendant denies the allegations contained in Paragraph 38 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

39.

Defendant denies the allegations contained in Paragraph 39 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

40.

Defendant denies the allegations contained in Paragraph 40 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

41.

Defendant denies the allegations contained in Paragraph 41 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

42.

Defendant denies the allegations contained in Paragraph 42 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

43.

Defendant denies the allegations contained in Paragraph 43 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

44.

Defendant denies the allegations contained in Paragraph 44 of the Complaint.

45.

Defendant denies the allegations contained in Paragraph 45 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

46.

Defendant denies the allegations contained in Paragraph 46 of the Complaint as written and for lack of sufficient information to justify a belief therein at this time.

47.

Defendant denies the allegations contained in Paragraph 47 of the Complaint as written and for lack of sufficient information.

48.

Defendant denies the allegations contained in Paragraph 48 of the Complaint as written and for lack of sufficient information.

49.

Defendant denies the allegations contained in Paragraph 49 of the Complaint as written and for lack of sufficient information.

50.

Defendant denies the allegations contained in Paragraph 50 of the Complaint as written and for lack of sufficient information.

52.

Defendant denies the allegations contained in Paragraph 52 of the Complaint as written and for lack of sufficient information.

53.

Defendant denies the allegations contained in Paragraph 53 of the Complaint.

54.

Defendants deny the allegations contained in Paragraph 54 of the Complaint.

55.

Defendants deny the allegations contained in Paragraph 55 of the Complaint.

56.

Defendants deny the allegations contained in Paragraph 56 of the Complaint as written and for lack of sufficient information.

57.

Defendants deny the allegations contained in Paragraph 57 of the Complaint except to admit that EMS was requested and arrived on scene.

58.

Defendants deny the allegations contained in Paragraph 58 of the Complaint except to admit that EMS was requested and arrived on scene.

59.

Defendant denies the allegations contained in Paragraph 59 of the Complaint for lack of sufficient information to justify a belief therein at this time.

60.

Defendant denies the allegations contained in Paragraph 60 of the Complaint except to admit that Green was loaded into an ambulance and transported. It is admitted that Defendant were received information that Greene had died.

61.

Defendant denies the allegations contained in Paragraph 61 of the Complaint for lack of sufficient information to justify a belief therein.

62.

Defendant denies the allegations contained in Paragraph 62 of the Complaint as written and submit that the writing referenced is the best evidence of its contents.

63.

Defendant denies the allegations contained in Paragraph 63 of the Complaint for lack of sufficient information to justify a belief therein at this time.

64.

Defendant denies the allegations contained in Paragraph 64 of the Complaint.

65.

Defendant denies the allegations contained in Paragraph 65 of the Complaint for lack of sufficient information to justify a belief therein at this time.

66.

Defendant denies the allegations contained in Paragraph 66 of the Complaint..

67.

Defendant denies the allegations contained in Paragraph 67 of the Complaint for lack of sufficient information to justify a belief therein at this time.

68.

Defendant denies the allegations contained in Paragraph 68 of the Complaint.

69.

Defendant denies the allegations contained in Paragraph 69 of the Complaint.

70.

Defendant denies the allegations contained in Paragraph 70 of the Complaint.

71.

Defendant denies the allegations contained in Paragraph 71 of the Complaint as not requiring an answer and for lack of sufficient information.

72.

Defendant denies the allegations contained in Paragraph 72 of the Complaint as not requiring an answer and for lack of sufficient information.

73.

Defendant denies the allegations contained in Paragraph 73 of the Complaint.

74.

Defendant denies the allegations contained in Paragraph 74 of the Complaint as not requiring an answer and for lack of sufficient information.

75.

Defendant denies the allegations contained in Paragraph 75 of the Complaint as not requiring an answer and for lack of sufficient information.

76.

Defendant denies the allegations contained in Paragraph 76 of the Complaint as written, as not requiring an answer and for lack of sufficient information.

77.

Defendant denies the allegations contained in Paragraph 77 of the Complaint as not requiring an answer and for lack of sufficient information.

78.

Defendant denies the allegations contained in Paragraph 78 of the Complaint as not requiring an answer and for lack of sufficient information.

79.

Defendant denies the allegations contained in Paragraph 79 of the Complaint.

80.

Defendant denies the allegations contained in Paragraph 80 of the Complaint.

81.

Defendant denies the allegations contained in Paragraph 81 of the Complaint for lack of sufficient information to justify a belief therein at this time.

82.

Defendant denies the allegations contained in Paragraph 82 of the Complaint.

83.

Defendant denies the allegations contained in Paragraph 83 of the Complaint.

84.

Defendant denies the allegations contained in Paragraph 84 of the Complaint.

85.

Defendant denies the allegations contained in Paragraph 85 of the Complaint.

86.

Defendant denies the allegations contained in Paragraph 86 of the Complaint as not requiring an answer.

87.

Defendant denies the allegations contained in Paragraph 87 of the Complaint.

88.

Defendant denies the allegations contained in Paragraph 88 of the Complaint.

89.

Defendant denies the allegations contained in Paragraph 89 of the Complaint.

90.

Defendant denies the allegations contained in Paragraph 90 of the Complaint.

91.

Defendant denies the allegations contained in Paragraph 91 of the Complaint as not requiring an answer.

92.

Defendant denies the allegations contained in Paragraph 92 of the Complaint.

93.

Defendant denies the allegations contained in Paragraph 93 of the Complaint.

94.

Defendant denies the allegations contained in Paragraph 94 of the Complaint.

95.

Defendant denies the allegations contained in Paragraph 95 of the Complaint.

96.

Defendant denies the allegations contained in Paragraph 96 of the Complaint.

97.

Defendant denies the allegations contained in Paragraph 97 of the Complaint.

98.

Defendant denies the allegations contained in Paragraph 98 of the Complaint as not requiring an answer.

Defendant, out of an abundance of caution, denies any and all other and remaining allegations, including all those that are numbered, labeled, unnumbered, unlabeled, mis-numbered, mislabeled, included as subsections to other paragraphs or sections, or that are construed to be amendments, supplements, or additions not herein answered, as they pertain to any named, misnamed, or unnamed Defendant(s).

JURY DEMAND

Defendant prays that this matter be tried before a jury as to all claims against all parties.

WHEREFORE, the premises considered, Defendant prays that this answer be deemed good and sufficient, that these defenses be maintained, and that after all due proceedings be had, there be judgment rendered herein in Defendant's favor and against Plaintiffs, dismissing the entirety of Plaintiffs' Complaint, with prejudice, at Plaintiffs' sole cost.

Respectfully submitted,
USRY & WEEKS, APLC

By: s/Blake J. Arcuri
Blake J. Arcuri (LSBN 32322)
Laura C. Rodrigue (LSBN 30428)
Craig E. Frosch (LSBN 19580_
1615 Poydras Street, Suite 1250
New Orleans, LA 70112
Telephone: (504) 592-4600
Facsimile: (504) 592-464
Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that on this 3rd day of June, 2021, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the court's electronic filing system. I also certify that a copy of the foregoing will be sent to all non-CM/ECF participants by United States Mail, properly addressed and postage prepaid.

/s/ Blake J. Arcuri